

HOUSE BILL 198
By Todd

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 17, to enact the "Clean Air Act of 2005"
relative to smoking.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1551, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 17, is amended by adding Sections 3 through 8 of this act as a new, appropriately designated part.

SECTION 3. The title of this act is and may be cited as, the "Clean Air Act of 2005".

SECTION 4. As used in this part, unless the context otherwise requires:

(1) "Designated smoking area" means an enclosed area designated as a place for smoking. A designated smoking area must be designed to minimize smoke escaping from the designated smoking area into a public place. If the designated smoking area is within the public place then it must be separately ventilated to the outside of the building;

(2) "Enclosed area" means a space between a floor and ceiling that is demarcated on all sides by floor-to-ceiling walls, windows, doors or passageways. Partitions, partial walls or office dividers that do not extend from the floor to the ceiling are not demarcations of enclosed areas;

(3) "Private office" means an enclosed area that constitutes the work area for no more than one person;

(4) "Public place" means any place, including a restaurant, which is not open to the sky into which the public is invited or allowed. A private residence is not a public place except to the extent that it is used as a day care or baby-sitting service. When a

private residence is used as a day care or baby-sitting service, those areas of the private residence which are used in the care of children and all portions adjacent to such areas from which smoke could enter such areas are deemed public places when children are present under such day care or baby-sitting service;

(5) "Restaurant" means any enclosed, indoor restaurant or other enclosed establishment to which the public is invited to be served food for consumption on its premises for a fee; and

(6) "Smoking" means the burning or carrying or possession of a lighted cigarette, cigar, pipe or other object containing tobacco or giving off tobacco smoke.

SECTION 5.

(a) Smoking is prohibited in all enclosed areas of public places and all rest rooms made available to the public, except as provided in subsection (b).

(b) The prohibition in subsection (a) is subject to the following limitations:

(1) Smoking is not prohibited in an enclosed area of a public place whenever the facility containing the enclosed area of the public place is not open to the public;

(2) Smoking is not prohibited in theaters or other enclosed areas used for plays, lectures, recitals of other similar purposes if the smoking is solely by a performer and the smoking is part of the performance;

(3) Smoking is not prohibited in any area when undertaken as part of a religious ceremony or as part of a cultural activity by a defined group;

(4) Smoking is not prohibited in taverns or lounges;

(5) Smoking is not prohibited in motel or hotel rooms that are rented to members of the public unless so designated by the motel or hotel management;

(6) Smoking is not prohibited in a private residence;

(7) Smoking is not prohibited in a retail store under two thousand square feet (2000 sq. ft.) which sells primarily tobacco or tobacco-related products; and

(8) Smoking is not prohibited on privately chartered buses.

(c) Nothing in this part prohibits the location of a designated smoking area within a public area, as long as no sales, services or other commercial or public activities are conducted in that area.

SECTION 6. Signs shall be posted conspicuously in buildings where smoking is regulated by this part. Designated smoking areas shall display signs which state "Smoking Permitted" with letters at least two inches (2") in height. Public places in which smoking is prohibited shall have signs which state "No Smoking" with letters at least two inches (2") in height or the international symbol for "No Smoking".

SECTION 7. No person may discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this part.

SECTION 8. A person who violates any provision of this part is subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation.

SECTION 9. This act shall take effect December 31, 2005, the public welfare requiring it.